

Legal Settlement and Residency -- February 2012

<p>Legal settlement, Iowa Code 252.16, is a 19th century formulation for support of the poor. Counties had 1 year to send poor families a notice to depart. Giving such notice removed the county responsibility to provide support.</p> <p>Legal settlement is used to determine which entity must fund many MHDS services, including the nonfederal share of certain Medicaid charges, costs at the MHIs, State Resource Centers, and county-based community services.</p>	<p>Residency: The MHDS Commission recommended transitioning to a residency-based system; the proposed definition is a streamlined version of the residency definition approved by the Commission.</p> <p>Present legislation applies residency to costs of MHIs, SRCs, and county-based community services.</p>
<p>Base Definition: A person continuously resides in a county for a period of one year. (durational residency)</p>	<p>The new definition adopts the definition of residency used elsewhere in the law: living in the county and has established an ongoing presence with the declared, good faith intention of living in the county for a permanent or indefinite period of time. For homeless persons, residency is where the person usually sleeps. Avoids problematic durational residency requirement.</p>
<p>Exceptions: There are several exceptions to accrual of legal settlement. For example, a person who moves to a county to receive services does not become legally settled in that county until the person resides for 1 year without services. Iowa Code 252.16(8).</p> <p>This protected a county from becoming financially responsibility for people who moved to participate in services. Courts interpret this as encouraging counties to develop community services.</p>	<p>The residency definition includes exceptions that are similar to the exceptions preventing accrual or change to county of legal settlement. The provisions following “‘County of residence’ does not mean” prevent a person from acquiring or changing a county of residence.</p> <p>Changes to Medicaid--responsibility for the nonfederal share and ACA-related changes--will reduce county costs, and may reduce the perceived need for the exceptions to residency included in the definition.</p>
<p>Exceptions and Retrospective Inquiry: The exceptions create a sometimes decades long retrospective inquiry into where a person lived, received services, or was incarcerated to determine legal settlement.</p>	<p>It appears as if a person becomes a state case if an exception applies. If the legislature intends to have a retrospective inquiry (as residency currently works), may want to clarify.</p>
<p>If none: If adult has no legal settlement but is a resident of Iowa, state pays as a “state case.” The State Payment Program serves 4,359 persons.</p>	<p>Persons without a county of residence become “state cases.”</p>
<p>Dispute Resolution: The historical backlog of disputes over responsibility for charges was resolved by the passage of the legal settlement dispute resolution process at Iowa Code 225C.8. Inapplicable to 2.22 and 812 disputes.</p>	<p>The proposed legislation uses the current legal settlement dispute resolution process as the model for resolving residency disputes. Inapplicable to 2.22 and 812 disputes.</p>
<p>Who does the work? Currently the county where the person presents does the administrative work of processing an application, and who pays the bills is decided behind the scenes.</p>	<p>It is unclear what entity provides the regional administrative services when a person has no county of residence.</p>
<p>What plan applies? Currently the management plan of the county of residence applies, even if legal settlement is elsewhere.</p>	<p>It is unclear what plan of services applies if a person is living in a county that is not the county of residence (i.e., living at an RCF).</p>

Changes in funding source from legal settlement to residency will require changes to Code sections specifying the financially responsible entity for each service.